

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOHNIE WILKERSON,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:06CV496 RWS
)	
DAVE DORMIRE, et al.,)	
)	
Respondents.)	

MEMORANDUM AND ORDER

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Johnie Wilkerson. I referred this matter to United States Magistrate Judge Terry I. Adelman for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On February 9, 2009, Judge Adelman filed his recommendation that Wilkerson's habeas petition should be denied.

Objections to Judge Adelman's Report and Recommendation were due to be filed by February 20, 2009. As of the date of this order, Wilkerson has not filed any objection to the Report and Recommendation. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Adelman and I will deny Wilkerson's habeas petition for the reasons stated in the Report and Recommendation dated February 9, 2009.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve

the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because Wilkerson has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that Judge Adelman's Report and Recommendation filed on February 9, 2009 is adopted and sustained in its entirety.

IT IS FURTHER ORDERED that Petitioner Johnie Wilkerson's Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

A separate Judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 5th day of March, 2009.